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UNITED STATES PATENT AND TRADEMARK OFFICE

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10/003,800	10/23/2001	Andrew R. Ferlitsch	SAL 1028	4802

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EXAMINER
LAM, ANDREW H

ART UNIT	PAPER NUMBER
2624	

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	10/003,800	FERLITSCH, ANDREW R.
Office Action Summary	Examiner	Art Unit	
	Andrew H. Lam	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *02/26/02*.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Specification

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:
(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. The data signal claimed is merely a set of

instructions per se. Since the data signal is merely a set of instructions not embodied on

a computer readable medium to realize the computer program functionality, the claimed

subject matter is non-statutory. See MPEP § 2106 IV.B.1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10, and 12-17 rejected under 35 U.S.C. 102(e) as being anticipated by

Yacoub (U.S. 6452692).

Regarding claim 1, Yacoub discloses a method for recovering a failed print task

comprising: monitoring a print system for a print task failure (col. 7, lines 55-57, in fig. 3

at step 370, the server is continuously checking for a print error message from the

printer); saving a failed print task when a print task failure occurs (col. 8, lines 2-4, the

server select a different printer when an error is occurred, then the job is spooled to the

selected printer); monitoring said print system for a successful print task (col. 10, lines

24-26, the server 460 query the database and re-compute to determine the next

available printer, see fig. 4); resending said saved, failed print task to a printer to which

said successful print task was sent (col. 7, lines 44-46, once the appropriate printer is

determined, the print job is sent and spooled to that printer (step 350) from the server,

see fig. 3).

Regarding claim 2, Yacoub discloses the method of claim 1 wherein said

monitoring for a print task failure (col. 7, lines 55-57, in fig. 3 at step 370, the server is

continuously checking for a print error message from the printer), said saving (col. 8,

lines 2-4, the server select a different printer when an error is occurred, then the job is

spooled to the selected printer), said monitoring for a successful print task (col. 10, lines

24-26, the server 460 query the database and re-compute to determine the next

available printer, see fig. 4) and said resending are controlled by a print system

component (fig. 5, server 680).

Regarding claim 3, Yacoub discloses the method of claim 2 wherein said print

system component is a print processor (fig. 5, server 680).

Regarding claim 4, Yacoub discloses the method of claim 2 wherein said print

system component is a spooler (col. 7, line 31, job is spooled to the server 330, see fig.

3).

Regarding claim 5, Yacoub discloses the method of claim 1 wherein said

resending only occurs when said printer to which said successful print task was sent is

the same printer as the one to which the failed print task was sent (col. 15, lines 27-30,

if the user wants to wait, then the printer will send an acknowledgment message when

the printer is not busy or when it is ready).

Regarding claim 6, Yacoub discloses the method of claim 1 further comprising

determining the characteristics of said successful print task and said failed print task

and comparing said successful print task characteristics to said failed print task

characteristics to determine the availability of a compatible printer (col. 7, lines 60-61,

the server reuses the same preferences that the user selected initially for the print job

so the server can resend the failed job to the appropriate printer) for said failed print

task and wherein said resending only occurs when said printer is compatible with said

failed print task.

Regarding claim 7, Yacoub discloses a method for recovering a failed print task

comprising: monitoring a print system for a print task failure (col. 7, lines 55-57, in fig. 3

at step 370, the server is continuously checking for a print error message from the

printer); saving a failed print task when a print task failure occurs (col. 8, lines 2-4, the

server select a different printer when an error is occurred, then the job is spooled to the

selected printer); monitoring said print system for a successful print task (col. 10, lines

24-26, the server 460 query the database and re-compute to determine the next

available printer, see fig. 4); analyzing said successful print task characteristics to

determine the capability (col. 7, lines 60-61, the server reuses the same preferences

that the user selected initially for the print job so the server can resend the failed job to

the appropriate printer) of the printer to which said successful print task was sent;

evaluating said printer's capability to determine whether said printer can print said failed

print task; resending said saved, failed print task to said printer if said printer is capable

of printing said failed print task.

Regarding claim 8, Yacoub discloses the method of claim 7 wherein said

evaluating comprises comparing the characteristics of said successful print task to the

characteristics of said failed print task (col. 10, lines 21-35, if a high end laser printer

has an error then the error message is sent to the server and server recalculate to

determine the next compatible (color or black and white) printer that is does not have an

error).

Regarding claim 9, Yacoub discloses the method of claim 7 wherein said

evaluating comprises comparing the capability (col. 10, lines 21-35, if a high end laser

printer has an error then the error message is sent to the server and server recalculate

to determine the next compatible (color or black and white) printer that is does not have

an error, the job is spooled to the low-end laser printer since it is compatible) of said

printer to the requirements of said failed print task.

Regarding claim 10, Yacoub discloses the method of claim 7 wherein said

evaluating comprises determining the location (col. 11, lines 8-35, the server

store/generate a coordinate map list of the physical locations of all printers so that when

an error occurs for the printer that is processing the print job the server then compares

printers that are compatible to the failed print job. The server then selects one of the

compatible printers that is the closest in physical location to the client station) of said

printer from said successful print task data and querying said printer for its capabilities

and comparing said printer capabilities with the requirements of said failed print task.

Regarding claim 12, Yacoub discloses a method for recovering a failed print task

comprising: monitoring a print system for a print task failure (col. 7, lines 55-57, in fig. 3

at step 370, the server is continuously checking for a print error message from the

printer); saving said failed print task occurs (col. 8, lines 2-4, the server select a different

printer when an error is occurred, then the job is spooled to the selected printer);

monitoring said print system for a successful print task (col. 10, lines 24-26, the server

460 query the database and re-compute to determine the next available printer, see fig.

4); analyzing said successful print task characteristics to determine the capability of the

printer to which said successful print task was sent (col. 10, lines 21-35, if a high end

laser printer has an error then the error message is sent to the server and server

recalculate to determine the next compatible (color or black and white) printer that is

does not have an error); evaluating said printer's capability to determine whether said

printer can print said failed print task (col. 7, lines 60-61, the server reuses the same

preferences that the user selected initially for the print job so the server can resend the

failed job to the appropriate printer); modifying said failed print task to allow printing on

said printer when said print task can not otherwise be printed on said printer (col. 10,

lines 21-33, since quality is not a preference of the user and black and white printing is

assumed the server modify the preference of the user to use another printer which is

the next appropriate printer); and sending said modified, failed print task to said printer

(col. 10, lines 34-35, print job is spooled to the low-end laser printer).

Regarding claim 13, Yacoub discloses the method of claim 12 wherein said

modifying comprises emulating at least one element of (col. 12, lines 32-35, the server

matches the print job with the user preferences profiles or computes a ranking of printer

according to it capabilities) said print task in software that would otherwise have been

performed by printer hardware.

Regarding claim 14, Yacoub discloses the method of claim 12 wherein said

modifying comprises emulating page formatting in software (fig. 3, step 350, the print

job is spooled to the appropriate printer--examiner interpret spooled data to be in page

format to be printed by printer).

Regarding claim 15, Yacoub discloses a system (fig. 3, shows a system for

recovering a failed print job) for recovering a failed print task comprising: a first monitor

for monitoring a print system for a print task failure (fig. 3, step 370, system is

monitoring print system for print error); storage for saving a failed print task when a print

task failure occurs (fig. 3, step 350, print job is spooled to the appropriate printer); a

second monitor for monitoring said print system for a successful print task (col. 10, lines

24-26, the server 460 query the database and re-compute to determine the next

available printer); an analyzer (software is doing the analyzing) for analyzing said

successful print task characteristics to determine the capability (col. 7, lines 60-61, the

server reuses the same preferences that the user selected initially for the print job so

the server can resend the failed job to the appropriate printer) of the printer to which

said successful print task was sent; an evaluator for evaluating (software is doing

evaluating) said printer's capability to determine whether said printer can print said

failed print task (col. 11, lines 8-35, the server store/generate a coordinate map list of

the physical locations of all printers so that when an error occur for one printer it

compare the next printer that is compatible to the print job and the closes to the user); a

sender for resending said saved, failed print task to said printer if said printer is capable

of printing said failed print task (col. 10, lines 21-35, if a high end laser printer has an

error then the error message is sent to the server and server recalculate to determine

the next compatible (color or black and white) printer that is does not have an error, the job is spooled to the low-end laser printer since it is compatible).

Regarding claim 16, Yacoub discloses a computer readable medium comprising instructions for performing functions within a print system component, said instructions (col. 13, lines 35-40, CPU 720 is capable of executing and issuing instructions, performing computations and processing data, see fig. 6) comprising the acts of: monitoring a print system for a print task failure (col. 7, lines 55-57, in fig. 3 at step 370, the server is continuously checking for a print error message from the printer) ; saving a failed print task when a print task failure occurs (col. 8, lines 2-4, the server select a different printer when an error is occurred, then the job is spooled to the selected printer); monitoring said print system for a successful print task (col. 10, lines 24-26, the server 460 query the database and re-compute to determine the next available printer, see fig. 4); analyzing said successful print task characteristics to determine the capability of the printer to which said successful print task was sent (col. 10, lines 21-35, if a high end laser printer has an error then the error message is sent to the server and server recalculate to determine the next compatible (color or black and white) printer that is does not have an error, the job is spooled to the low-end laser printer since it is compatible); evaluating said printer's capability to determine whether said printer can print said failed print task; resending said saved, failed print task to said printer if said printer is capable of printing said failed print task (col. 10, lines 21-35, if a high end laser printer has an error then the error message is sent to the server and server recalculate

to determine the next compatible (color or black and white) printer that is does not have

an error, the job is spooled to the low-end laser printer since it is compatible).

Regarding claim 17, Yacoub discloses a computer data signal embodied in an

electronic transmission, said signal having the function of recovering failed print tasks,

said signal comprising instructions for: monitoring a print system for a print task failure

(col. 7, lines 55-57, in fig. 3 at step 370, the server is continuously checking for a print

error message from the printer); saving a failed print task when a print task failure

occurs (col. 8, lines 2-4, the server select a different printer when an error is occurred,

then the job is spooled to the selected printer); monitoring said print system for a

successful print task (col. 10, lines 24-26, the server 460 query the database and re-

compute to determine the next available printer, see fig. 4); analyzing said successful

print task characteristics to determine the capability of the printer to which said

successful print task was sent (col. 10, lines 21-35, if a high end laser printer has an

error then the error message is sent to the server and server recalculate to determine

the next compatible (color or black and white) printer that is does not have an error, the

job is spooled to the low-end laser printer since it is compatible); evaluating said

printer's capability to determine whether said printer can print said failed print task;

resending said saved, failed print task to said printer if said printer is capable of printing

said failed print task (col. 10, lines 21-35, if a high end laser printer has an error then the

error message is sent to the server and server recalculate to determine the next

compatible (color or black and white) printer that is does not have an error, the job is

spooled to the low-end laser printer since it is compatible).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claim 11, rejected under 35 U.S.C. 103(a) as being unpatentable over Yacoub in

view of Shah et al (U.S. 6618167).

Regarding claim 11, Yacoub disclose a method for recovering a failed

print task comprising: monitoring a print system for a print task failure (col. 7, lines 55-

57, in fig. 3 at step 370, the server is continuously checking for a print error message

from the printer); saving said failed print task occurs (col. 8, lines 2-4, the server select a

different printer when an error is occurred, then the job is spooled to the selected

printer); monitoring said print system for a successful print task (col. 10, lines 24-26, the

server 460 query the database and re-compute to determine the next available printer,

see fig. 4); analyzing said successful print task characteristics to determine the

capability of the printer to which said successful print task was sent (col. 10, lines 21-35,

if a high end laser printer has an error then the error message is sent to the server and

server recalculate to determine the next compatible (color or black and white) printer

that is does not have an error); evaluating said printer's capability to determine whether

said printer can print said failed print task (col. 7, lines 60-61, the server reuses the

same preferences that the user selected initially for the print job so the server can

resend the failed job to the appropriate printer); modifying said failed print task to allow

printing on said printer when said print task can not otherwise be printed on said printer (col. 10, lines 21-33, since quality is not a preference of the user and black and white printing is assumed the server modify the preference of the user to use another printer which is the next appropriate printer); and sending said modified, failed print task to said printer (col. 10, lines 34-35, print job is spooled to the low-end laser printer).

Yacoub does not disclose expressly that the user is prompt to prioritize a failed print task when a print task failure occurs; saving said failed print task when its priority is sufficiently high.

Shah discloses that a customer can prioritize print job (col. 2, lines 32-35).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Yacoub as per teaching of Shah because of the following reason: by prioritizing print job it insure that the job with the highest priority (most important print job) get printed first (col. 3, lines 55-56).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew H. Lam whose telephone number is (571) 272-8569. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

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